Division Bench (Civil)

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IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

M.P.No. 4315 1991

PETITIONERS : 1 Bhupinder Singh Garewal

2. Rajwant Singh Garewal

3. Sarabjeet Singh Garewal

4. Balvinder Singh Garewal

All Sons of Late Shri Capt. Simrath Singh R/o Jorapara, Raipur

V E R S U S

RESPONDENTS : 1. State of Madhya Pradesh through Secretary, Department of Urban Ceiling, Vallabh Bhawan Bhopal.

2. Competent Authority, Nagar Bhoomi Seema, Collectorate, Raipur.

PETITION UNDER ARTICLE 226UPON 227 CONSTITUTION OF INDIA FOR ENFORCEMENT OF FUNDAMENTAL RIGHT OF HEARING AND OF PROPERTY UNDER ARTICLE 14 AND 300-A CONSTITUTION OF INDIA.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P 4315/91 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23-06-2005

Shri B.P. Sharma, counsel for the petitioners.

Shri Parag Kotecha, P.L., for the State.

It is stated that inadvertently the annexures have not been properly annexed.

Counsel for the petitioners sought permission for arranging the annexures properly.

Permission granted. The annexures may be properly arranged.

Case is passed over.

Sd/-
Fakhruddin
Judge

Later on:

Shri B.P. Sharma for the petitioners.

Shri Parag Kotecha, P.L., for the State.

Heard.

By this petition, under Article 226/227 of the Constitution of India, the petitioners have challenged the proceedings in Ceiling Case No.223/79-80 of the Competent Authority, Nagar Bhoomi Seema, Collectorate, Raipur.

Learned counsel for the petitioners contended that the petitioners' father Capt. Simrat Singh was an Army Officer and after retirement from Army his family decided to settle at Raipur and they purchased the property in the name of the father. It is further contended that the area was shown reserved for residential purpose but there was no demarcation of these lands and the recording was only on paper. It was the

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

agricultural land. The contention is that in Urban Ceiling Act, the proceedings were not maintainable.

Learned counsel for the petitioners referred to the order sheets of the Court of Competent Authority, Nagar Bhoomi Seema. He pointed out that pursuant to the notice issued on 24/5/1980, the holder had appeared on 4/6/1980 and had also given the statement on that date. It is submitted that on 11/8/1987 the Court noted that holder Simrat Singh had filed the objection and as the time has elapsed the objection was not sustainable and the notice was sent. It is further submitted that the objections were not at all considered and even no opportunity of hearing was given at all. It is also submitted that after the death of the holder the legal heirs ought to have been heard. The prayer is made to the effect that the matter may be remanded back and the petitioners may be given an opportunity of hearing.

On perusal of the order sheets of the Court of Competent Authority, it appears that on 11/8/1987 the Court noted that holder Simrat Singh had filed the objection and as the time has elapsed the objection was not sustainable and the notice was sent. On 22/2/1988, the agricultural holder was present and the lawyers were on strike, therefore, the case was adjourned. On 11/4/1988, present petitioner no.1 Bhupendra Singh appeared and it was written in the order sheet that the Presiding Officer was not present. The order sheet dated 20/4/1988 shows that the son of the deceased holder is

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

present and the Presiding Officer was out. On 25/5/1988, it was informed that the holder has died and Bhupendra Singh had intimated.

The order sheets also show that no opportunity of hearing was given. The Court below should have considered the objections as raised in the application Annexure-P/2.

Under the circumstances, in the opinion of this Court, it is directed that the matter be remanded back to the court below and it be decided as expeditiously as possible after giving an opportunity of hearing to the petitioners.

With the aforesaid observations, this petition stands disposed of.

Certified copy as per rules.

Sd/-
Fakhruddin
Judge

H/-

SP/FS/2005 - 20,000